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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,786	01/16/2004	Henry J. Leis	LEIS-0001	6323
23377	7590	11/28/2005	EXAMINER	
WOODCOCK WASHBURN LLP ONE LIBERTY PLACE, 46TH FLOOR 1650 MARKET STREET PHILADELPHIA, PA 19103			CHAUDHRY, SAEED T	
			ART UNIT	PAPER NUMBER
			1746	

DATE MAILED: 11/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/758,786

Applicant(s)

LEIS, HENRY J.

Examiner

Saeed T. Chaudhry

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) 35-45 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12/6/04; 3/2/05</u> . | 6) <input type="checkbox"/> Other: ____. |

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DETAILED ACTION

Election/Restriction

Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I, Claims 1-34, drawn to a system comprising a wand having a body, a neck, a brush comprising bristles, an ultrasonic generator; a reservoir; a pump and fitting, classified in Class 15, subclass 22.1.

Group II, Claims 35-45, drawn to method of cleaning a surface, classified in Class 134, subclass 6.

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (M.P.E.P. § 806.05(e)). In this case the process as claimed can be practiced by another materially different apparatus such as without a reservoir attached to the body or wand or the apparatus as claimed can be used to practice another and materially different process such as coating a surface.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, have acquired a separate status in the art because of their recognized divergent subject matter, the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr. Frank T. Carroll on November 16, 2005 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-34. Affirmation of this election must be made by applicant in responding to this Office action. Claims 35-45 are withdrawn from further consideration by the Examiner, 37 C.F.R. § 1.142(b), as being drawn to a non-elected invention.

Joint Inventors

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

Claim Rejections - 35 USC § 112

Claim 13 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13, recite "Further comprising", but fail to specify the claim number from which it depends. The claim 13 is treated as it depend on claim 1.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (c) he has abandoned the invention.
- (d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States.
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.
- (f) he did not himself invent the subject matter sought to be patented.
- (g) before the applicant's invention thereof the invention was made in this country by another who had not abandoned, suppressed, or concealed it. In determining priority of invention there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

Claims 1, 2, 4-6, 17-18, 20-23, 25-27, 29-30, and 34 are rejected under 35 U.S.C.

§ 102(b) as being anticipated by Ahara (JP-2001-8736).

Ahara (JP-2001-8736) discloses a tooth brush having a washing effect by ultrasonic wave. This ultrasonic tooth brush consists of a head 10 with a brush, a handle 20 and a water feed reservoir 30. The head 10 forms a head body 11 disposed with a piezoelectric vibrator 12 and partly disposed with a water feed port. An electric circuit for feeding high frequencies to the piezoelectric transducer 12 is disposed in the handle 20. The water reservoir 30 has a pump 22 for feeding water. A water supply opening 13 which is equivalent to a nozzle and supplies water between the bristles of the brush (see abstract and Figs. 1-3).

Claims 1-4, 13-15, 17, 20-22, 25-28, and 34 are rejected under 35 U.S.C. § 102(b) as being anticipated by Gruber.

Gruber (2002/0108193) discloses An oral care system (1) comprising a sonic power toothbrush (2) which comprises a body (3), a brush member (4) mounted on the body (3), a brush head (5) which is supported by the brush member (4) at its end remote from the body (3) so as to be able to vibrate relative to the body (3) and which is provided with bristles (6) and an additive outlet (7), an additive container (8) connected to said additive outlet (7), driving means (9) for generating sonic frequency vibrations, and transmission means (29) for transmitting said sonic frequency vibrations to the brush head (5), wherein the toothbrush (2) comprises at least one further additive container (18). The brush member 4 in this embodiment is mounted fixedly on the body 3, but it may alternatively detachably mounted so that the brush member 4 can be replaced with a new one when the bristles 6 are worn out. The toothbrush 2 furthermore comprises driving means 9 for generating sonic frequency vibrations and transmission means 29

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for transmitting said sonic frequency vibrations to the brush head 5. These driving and transmission means are shown diagrammatically in FIG. 1 and may comprise driving and transmission means as described, for example, in EP 0565598 B1. The driving means 9 may comprise drive electronics such as a power supply, an oscillator, an amplifier, and a transformer, but may alternatively comprise any other known type of driving means capable of generating sonic frequency vibrations (see paragraph 0015).

The toothbrush 2 comprises a further additive container 18 next to the additive container 8, which containers are both in connection with the additive outlet 7 formed by openings 7' in the brush head 5. The containers are connected to these openings 7' via a pump unit 13 and respective transport channels 14 and 24. The pump unit 13 in this embodiment comprises an electrically driven pump which is activated by a processor 19. The processor activates the pump unit 13 into pumping from one of the containers in dependence on the input from this switch 21 when the driving means 9 are activated by means of the on/off button 10 (see paragraph 0016).

Furthermore, it is possible to apply sonic frequency vibrations during one of the additive flows only, while the other additive is applied without sonic frequency vibrations (see paragraph 0017). The opening 7'' has a nozzle having entrance diameter larger than the exit diameter and directs streams of fluid between the brush bristles (see Fig. 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made

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The factual inquiries set forth in *Graham v. John Deere Co.*, 148 USPQ 459, that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or unobviousness.

Claims 7, 14-16 and 31 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ahara (JP-2001-8736) in view of Bock.

Ahara (JP-2001-8736) was discussed supra. However, the reference fails to disclose that the piezoelectric generator is a piezoelectric crystal and base having a cavity.

Bock (5,138,733) disclose an ultrasonic brush comprising a base, which has a cavity (46) formed therein for receiving an end of a neck and a piezoelectric transducer (28) for producing ultrasonic energy to the brush bristles (34). The piezoelectric transducer (28) is a piezoelectric crystal (see col. 2, lines 45 through col. 3, lines 68).

It would have been obvious at the time applicant invented the claimed apparatus to incorporate a base having a cavity and piezoelectric crystal as disclosed by Bock into brush Ahara for the purpose of producing ultrasonic vibration and for easy replacement of the brush head.

Claims 5-7, 16, 18, 23, and 29-31 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Gruber in view of Bock.

Gruber was discussed supra. However, the reference fails to disclose that the piezoelectric generator is a piezoelectric crystal and a base having a cavity.

Bock (5,138,733) disclose an ultrasonic brush comprising a base, which has a cavity (46) formed therein for receiving an end of a neck and a piezoelectric transducer (28) for producing

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ultrasonic energy to the brush bristles (34). The piezoelectric transducer (28) is a piezoelectric crystal (see col. 2, lines 45 through col. 3, lines 68).

It would have been obvious at the time applicant invented the claimed apparatus to incorporate a base having a cavity and piezoelectric crystal as disclosed by Bock into brush Gruber because Gruber suggested to use any transducer means which generate ultrasonic frequency vibrations in the bristles of the brush. Further, one of ordinary would use a base having cavity as disclosed by Bock for easy replacement of the brush head.

Claims 8-9 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahara (JP-2001-8736) or Gruber applied to claims 1 and 25 above, and further in view of Giuliani et al.

Ahara (JP-2001-8736) or Gruber were discussed supra. However, the references fail to disclose magnet field generator and a permanent magnet for producing ultrasonic vibrations.

Giuliani et al (5,189,751) disclose a magnet and magnetic field generator 20 and 26 for producing ultrasonic vibration in a brush head (see Figs. 1 and 3, and col. 4, lines 42-64).

It is well known in the ultrasonic vibration brush art to produce vibrations with magnet and magnet generator as disclosed by Giuliani et al. Therefore, it would have been obvious at the time applicant invented the claimed brush to incorporate magnet and magnet generator in the apparatus of Ahara or Gruber for the purpose of generating vibrations in the brush.

Claims 10, 19 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahara (JP-2001-8736) applied to claims 1, 5 and 25 above, and further in view of Bock.

Ahara (JP-2001-8736) was discussed supra. However, the references fail to disclose an eccentrically weighted motor.

Bock (5,738,575) disclose an eccentrically weighted motor 3 for producing ultrasonic vibration (see col. 3, lines 56-64).

It would have been obvious at the time applicant invented the claimed apparatus to include an eccentrically weighted motor as disclosed by Bock into the apparatus of Ahara for the purpose of producing ultrasonic vibration.

Claims 11 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gruber applied to claims 1 and 20 above, and further in view of Heitman.

Ahara (JP-2001-8736) or Gruber were discussed supra. However, the reference fails to disclose a pulsing valve.

Heitman (5,269,335) discloses a pulsing valve for intermittently flow of fluid (see abstract).

It would have been obvious at the time applicant invented the claimed apparatus to include a pulsing valve into the apparatus of Ahara or Gruber for the purpose of fluid hammer effect on the surface for efficient results.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ahara (JP-2001-8736) or Gruber applied to claim 1 above, and further in view of Ambasz.

Ahara (JP-2001-8736) or Gruber were discussed supra. However, the reference fails to disclose that the neck is a telescoping neck.

Ambasz (5,077,855) discloses a brush head fits in telescoping relation (see claims).

It would have been obvious at the time applicant invented the claimed apparatus to include a telescoping brush head as disclosed by Ambasz into the apparatus of Ahara or Gruber for the purpose of extending the length of the brush.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saeed T. Chaudhry whose telephone number is (571) 272-1298. The examiner can normally be reached on Monday-Friday from 9:30 A.M. to 4:00 P.M.

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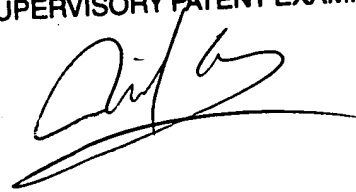
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Michael Barr, can be reached on (571)-272-1414. The fax phone number for non-final is (703)-872-9306.

When filing a FAX in Gp 1700, please indicate in the Header (upper right) "Official" for papers that are to be entered into the file, and "Unofficial" for draft documents and other communication with the PTO that are for entry into the file of the application. This will expedite processing of your papers.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-1700.

Saeed T. Chaudhry
Patent Examiner

MICHAEL BARR
SUPERVISORY PATENT EXAMINER

A handwritten signature in black ink, appearing to read 'Michael Barr', is written over the printed name and title.